

January 15, 2025

Comment Intake – Recordkeeping for Custodial Accounts
James P. Sheesley, Assistant Executive Secretary
Attn: Comments-RIN 3064-AG07
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

RE: Recordkeeping for Custodial Accounts

Dear FDIC,

This comment letter is submitted by Axos Bank in response to the advance notice of proposed rulemaking, Recordkeeping for Custodial Accounts (12 CFR Part 375 published 10/02/2024) issued by the Federal Deposit Insurance Corporation. Axos Bank supports the Agency's mission to strengthen FDIC-insured depository institutions' (IDI) recordkeeping for custodial deposit accounts with transactional features and preserve beneficial owners' and depositors' entitlement to the protections afforded by Federal deposit insurance.

Specifically, Axos submits the below comments:

1. Agree and concur that banks should bare the responsibility to either directly provide, or have full access and visibility to, the sub-ledger records that capture the detail of each beneficial owner. In practice, we interpret the application to be for an FBO account structure whereby the custodian is holding money in a pooled FBO account on behalf of multiple beneficiaries / beneficial owners; the Insured Depository Institution holding the FBO account should either be the direct provider of the sub-ledgering records OR should

be able to access (and reconcile against) a third-party software that provides the sub-ledgering. In ether scenario, the bank should have full access and visibility to the sub-ledger system of record that denotes the beneficial ownership breakdown of the funds held in the FBO account
2. The FDIC stipulates the bank may utilize a third-party to maintain the recordkeeping requirements. Two questions on this specific stipulation:
 - If the client/custodian contracts directly with a third-party software to maintain the sub-ledger, and the IDI obtains contractual permission to access that platform to meet the recordkeeping requirements, is that an acceptable structure?
 - If the client/custodian contracts directly with a third-party software to maintain the sub-ledger, and the IDI obtains contractual permission to access that platform to meet the recordkeeping requirements? The comments stipulate the bank may use a third party, but it warrants clarification if that third-party can be the same



- platform used directly by the Client/Custodian; this is an important detail that should be specified in the guidance.
- Many clients/custodians utilize either an in-house software, or a directly-contracted third-party software, for their sub-ledger recordkeeping; if it is not acceptable for an IDI to obtain contractual access to their sub-ledger, but rather must utilize their own sub-ledgering, or a third-party that is not the same as the client's in-house or third-party, this could provide a disadvantage to smaller banks that don't have sophisticated virtual account with full payment routing capabilities.

Axos Bank appreciates the opportunity to provide a response to the Agency with its perspective as the nation's first online-only, federally chartered institution, on proposed changes to Custodial Deposit Accounts with Transactional Features.

Very truly yours,

Christian Santaniello
SVP Head of Commercial Deposits and Treasury Management